

## REMARKS

Claims 15-26 and 28-34 are pending herein with Claims 15, 28, and 32 being independent claims. Claim 18 has been allowed; Claims 24 and 25 have been objected to; and Claims 15-17, 19-23, and 28-32 have been rejected. Claims 33 and 34 are new.

### *35 U.S.C. § 112:*

Claims 15, 28, and 32 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite with respect to the use of the term "adjacent" thereto. The claims have been amended to specify that the extruder includes a cutter that is "attached" thereto. *See Fig. 1A.*

### *35 U.S.C. § 103:*

Claims 15-17, 19-23, 26, and 28-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,337,084 to Stevens, et al. in view of U.S. Patent No. 6,045,851 to Cross and further in view of U.S. Patent No. 6,415,708 to Huber, et al. Stevens was described as showing a system with an extruder, a segmenter for cutting the extrudate, a dryer for drying the segments, a mill for milling to provide granules, and a sieve for screening and sorting the granules. Stevens was described as not disclosing an extruder comprising a cutter or a second dryer. Cross was described as showing a cutter for cutting a cooked extrudate as it emerges from the extruder. Likewise, Huber was described as having an extruder with a rotating knife assembly positioned adjacent to the outlet of the extruder.

The primary issue is whether the segmenter of Stevens is the same thing as the extruder with a cutter that the Examiner admits is shown in Cross and Huber. The Applicant previously asserted this point because Steven explicitly states such:

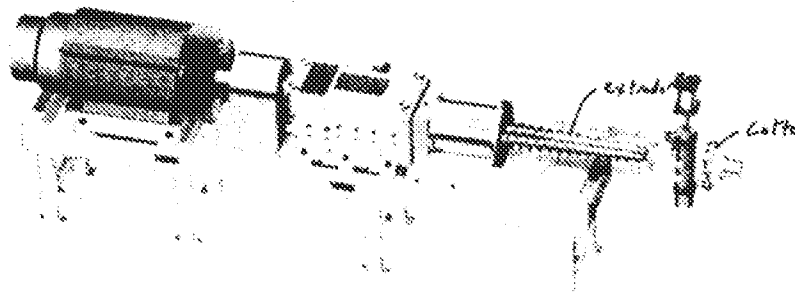
Water and the lysine hydrochloride were extruded through a 10 mm die to produce a linear flow of dense cohesive materials which was cut into segments with a knife attached to the outlet of the extruder.

Col. 9, lines 26-29. (Emphasis added).

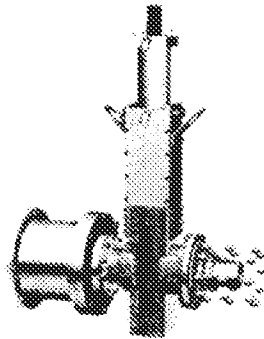
Moreover, Stevens describes timing the rotating knife to match the speed of the extruder. See col. 4, lines 37-53. The Applicant thus submits that no orientation of the segmenter is possible other than that also shown in Cross, Huber, and the like given the explicit cooperation between the devices.

In the current office action, the Examiner first states that Stevens does show "an extruder containing a cutter" but then states that "a segmenter is different from a cutter." Neither statement, however, is supported in anyway.

The Applicant asserts that one of ordinary skill in the art would understand that the "segmenter" of Stevens is nothing more than a cutter attached to an extruder. For example, Stevens states that a suitable extruder would be a "Wenger Model TX52-Twin Screw Extruder". See col. 4, line 25. A quick review of the Wenger webpage specifically shows a TX extruder with the cutter attached thereto downstream of the extruder.



Likewise, the "Wenger BPV Back Pressure Valve" brochure clearly shows the arrangement of the extruder, the back pressure valve, and the die/knife assemblies.

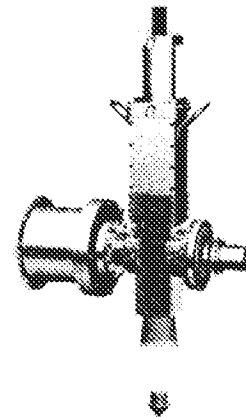


### Operation Mode

The variable opening BPV is mounted on the end of the extruder prior to the final die. Specific Mechanical Energy (SME) and extrusion pressure are process parameters controlled by valve positioning.

### Bypass Mode

An integral part of the BPV is a by-pass feature to divert product from the die when service is performed on the die/knife assemblies and during startup and shutdown.



Further, a review of Wenger extruder patents also all show the extruder with the knife attached thereto. *See, e.g.*, U.S. Patent No. 5,242,292; 5,694,833; 5,700,501; 6,103,290; and 7,588,789.

Given such, there is not a shred of evidence in the record that the segmenter of Stevens is anything other than a cutter attached to an extruder. As such, none of the cited references show the comminuting device separate from the extruder for comminuting loaves to form crumbs. Without such a reference, the Applicant submits that the claims herein are patentable over the cited references.

*New Claims:*

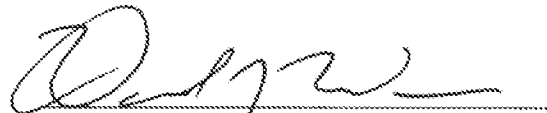
The Applicant also has added new claims to distinguish further the extruder with a cutter and the comminuting device. As stated in the specification, the cutter 480 adjacent to the die of the extruder 460 may have the speed of about 500 to about 2,000 revolutions per minute. Paragraph [0038] (of the application as published). This relatively slow speed is required given that the product loaves at this point after the extruder may have a water content of about 30% to about 38%. Paragraph [0072]. The cutter 770 of the comminuting device, however, may operate at a much higher rate of speed of about 3,000 to about 5,600 revolutions per minute. Paragraph [0054]. The higher speed is possible given that the water content of the product crumbs has been reduced to about 3% to about 10%. Paragraph [0077].

**CONCLUSION**

The Applicant believes that it has responded in each matter raised in the Office Action. Allowance of all claims is respectfully requested. Any questions may be directed to the undersigned at 404.853.8028.

Date: August 14, 2010

Respectfully submitted,

  
Daniel J. Warren  
Reg. No. 34,272

**SUTHERLAND ASBILL & BRENNAN LLP**  
999 Peachtree Street, NE  
Atlanta, Georgia 30309-3996  
(404) 853-8000  
(404) 853-8806 (Facsimile)  
[daniel.warren@sutherland.com](mailto:daniel.warren@sutherland.com)